

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION

MDL No. 1456

CIVIL ACTION: 01-CV-12257-PBS

THIS DOCUMENT RELATES TO ALL  
CLASS ACTIONS  
01-CV-12257-PBS AND 01-CV-339

Judge Patti B. Saris

Chief Magistrate Judge Marianne B. Bowler

**PLAINTIFFS' MOTION FOR LEAVE TO FILE UNDER SEAL**

Plaintiffs, by their attorneys, respectfully move this Court for a leave to file under seal  
Plaintiffs' Response to First DataBank, Inc.'s Counter-Motion for Protective Order.

Throughout their Response, Plaintiffs quote from documents and deposition transcripts  
that have been identified by certain defendants and First DataBank as "CONFIDENTIAL" or  
"HIGHLY CONFIDENTIAL" pursuant to the terms of the December 13, 2004 Protective Order.  
Paragraph 15 of the Protective Order mandates that any document or pleading containing such  
information be filed under seal. Plaintiffs hereby comply with the terms of the Protective Order.  
At this time, Plaintiffs' take no position as to whether the information so designated is in fact  
"CONFIDENTIAL" or HIGHLY CONFIDENTIAL and explicitly reserve their right to  
challenge such designations in accordance with the terms of the Protective Order. Plaintiffs have  
no doubt however that to comply with the terms of the protective order these materials must be  
filed under seal.

WHEREFORE, Plaintiffs respectfully request that this Court grant them leave to file their Response to First DataBank, Inc.'s Counter-Motion for Protective Order under seal, and all other relief that this Court deems just and proper.

DATED: September 10, 2004

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**CERTIFICATE OF SERVICE**

I hereby certify that I, John Macoretta, an attorney, caused a true and correct copy of the foregoing **PLAINTIFFS' MOTION FOR LEAVE TO FILE UNDER SEAL** to be served upon all counsel of record via Verilaw and upon counsel for First DataBank via regular mail at the address below:

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Date: September 10, 2004